

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Mark Odachowski

Application No.:

Filed: November 4, 2003

For: Square Level

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Notice of Allowance Date:

Group Art Unit:

Examiner

Class-Subclass:

Atty. Dkt. No.: ODAC27R

STATEMENT IN SUPPORT OF ACCOMPANYING PETITION TO MAKE SPECIAL

Reason VIII - Special Procedure: Search Was Made

In support of the accompanying transmitted Petition To Make Special, applicant hereby states that:

1. All claims are directed to a single invention, or if the Office determines that all claims presented are not obviously directed to a single invention, the applicant will make the required election without traverse as a prerequisite to the grant of special status.
2. A pre-examination, prior art search was made of the following classes and subclasses:
33:451 Geometric Instruments, Straightedges, Combined With Level
33:495 Geometric Instruments, Straightedges, Combined With Level, With Pivot Joints
33:498 Geometric Instruments, Straightedges, Combined With Level, 90 Degree Limit
3. An Information Disclosure Statement was filed with the applicant's original application in order to allow the applicant to comply with his duty of disclosure as set forth at 37 C.F.R. § 1.56. This Statement includes a completed form PTO-1499, which lists the pre-examination, prior art search results and included a copy of each of the listed references. Thus, another copy of these references are not being directly submitted with this statement; however, a copy of this Information Disclosure Statement and form PTO-1499 are enclosed.
4. Submitted below is information on the general level of the art in the field of the applicant's invention, and a detailed discussion of the pre-examination, prior art search references, wherein there are pointed out, with the particularity required by 37 CFR 1.11(b) and (c), the specific

distinctions believed to render the claims patentable over any references, and how the language of the claims patentably distinguishes them from the references:

Craftsmen such as carpenters, plumbers, electricians, and contractors, for example, repeatedly make use of several basic tools in their jobs. Some of the most commonly used tools include scales, squares, levels, straight edges, among others.

There have been numerous attempts in the past to combine several of these commonly used tools into one for convenience. Examples of such attempts include U.S. Pat. Nos. 120,675, 339,287, 732,827, 1,014,402, 1,210,370, 1,806,396, 2,559,961, 2,728,989, 2,878,569, and 3,783,518, 4,317,289, 4,481,720 and 5,459,935.

All of these combination tools seem to share two common traits: (a) the two movable parts of the tool are hinged in such a manner that their motion is in the same plane (e.g., the x-y plane shown in attached FIG. 2) as that which is defined by the plane of use of the tool; the manner of hinging of these parts does not allow for motion outside of the such tool's intended plane of use (i.e., there is no motion in the z-plane of FIG. 2), and (b) the hinging of the two parts is such that they may be oriented with respect to each other at any angle between 0 to 90 degrees. These traits prove to be important in considering the novelty of the present invention.

Despite a long recognized need for a tool that offers the combined functions of a level and a square, and despite considerable prior art directed towards such a combination tool, such a tool has not yet accepted for wide spread use in the construction industry. Accordingly, there remains a need for an improved device combining both the functions of a level and a square.

Turning now to discuss each of the pre-examination, prior art search references, it can be seen that:

U.S. Pat. No. 732,827, issued to Chambers, discloses a hinged level whose two parts can move in the plane of the level so as to be oriented with respect to each other at angles from 0 to 90 degrees. See attached FIG. 1. However, it should be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 1,210,370, issued to Dvorak, discloses a combination level and square which incorporates an alternative hinge that also allows the two parts of such a level to be oriented with respect to each other at angles from 0 to 90 degrees. See attached FIG. 2. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 4,317,289, issued to Conn, discloses a similar such combination of a level and a square. See attached FIG. 3. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 5,459,935, issued to Paulson, discloses a similar such combination of a level and a square. See attached FIG. 4. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 120,675, issued to Shelley, discloses a two section level in which the sections are joined at their ends and can be rotated about this joint to form a square. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 339,287, issued to Gates, discloses a similar, two section level in which the sections are joined at their ends and can be rotated about this joint to form a square. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that

extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 1,014,402, issued to Larsen, also discloses a two section level in which the sections are joined at their ends and can be rotated about this joint to form straight edges having any specified internal angle. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 1,806,396, issued to Hartwell, discloses a similar, two section level in which the sections are joined at their ends and can be rotated about this joint to form a square. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 2,559,961, issued to Howell, discloses a multi-section level in which the sections can be folded to form a number of arc segments, including a 90 degree angle. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 2,728,989, issued to Laggren, again discloses a two section level in which the sections are joined at their ends and can be rotated about this joint to form a square or any other desired included angle. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 2,878,569, issued to Metrulis, also discloses a two section level in which the sections are joined at their ends and can be rotated about this joint to form a square. However, it

can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 3,783,518, issued to Jones, discloses a more complex and elaborate two section level in which the sections are joined at their ends and can be rotated about this joint to form a square. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are quite different from those of this cited, prior art reference.

U.S. Pat. No. 4,481,720, issued to Sury, discloses a combined level and protractor in which the level vials can be recalibrated. A protractor arm pivots from a recess within the main body to a 90 degree position. A stop structure including a thumb wheel and a lead screw shaft can be used to fix the angular position of the protractor arm. However, it can again be noted that the claimed subject matter of the present invention involves elements (e.g., a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections) that are not disclosed in this prior art reference.

The language of the claims of the present invention are patentably distinguishable from such prior references. For example, it should be noted that the present invention has unique, elements such as: a means for coupling that joins said flat surfaces and allows said sections to rotate about an axis that extends perpendicular to said surfaces and passes through a point located on said centerlines of said sections. No such elements are seen in the cited prior art.

In view of the foregoing, it is submitted that a detailed discussion of the prior art references has been provided, wherein there has been pointed out, with the particularity required by 37 CFR 1.11(b) and (c), the specific distinctions believed to render the claims patentable over these references, and how the language of the claims patentably distinguishes them from the references.

Granting of this "Petition To Make Special" at an early date is requested.

Respectfully submitted,

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Date

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I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated above and is addressed to the Commissioner for Patents, BOX: Patent Application, P.O. Box 1450, Alexandria, VA 22313-1450. Signature: _____